

UNITED STATES OF AMERICA
Before The
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

In The Matter Of:

| | | |
|-------------------------------------|---|--------------------------|
| Digital Audio Broadcasting Systems |) | |
| And Their Impact On The |) | FCC Docket No. MM 99-325 |
| Terrestrial Radio Broadcast Service |) | |

SUPPLEMENTAL REPLY COMMENTS OF THE AMHERST ALLIANCE

THE AMHERST ALLIANCE is a Net-based, nationwide citizens' advocacy group. Amherst was founded in 1998 -- at a meeting in Amherst, Massachusetts -- to promote Low Power Radio in particular *and* a more open mass media in general.

THE AMHERST ALLIANCE has filed Written Comments on several occasions regarding the contemplated mandate, in FCC Docket MM 99-325, for IBOC (In Band On Channel) Digitalization. Recently, we filed Reply Comments in this Docket, endorsing the endorsement of Eureka-147 Digitalization technology in Written Comments filed by VIRGINIA CENTER FOR THE PUBLIC PRESS.

We are now filing these *Supplemental* Reply Comments in order to address several additional points which have arisen since our last filing in this Docket.

Need To Consider The Documents In FCC Docket MM 00-221

In the internal deliberations on our endorsement of the endorsement of Eureka-147 technology by the VIRGINIA CENTER FOR THE PUBLIC PRESS, we were of course aware that the FCC's primary rationale for investigating IBOC technology first was the desire to avoid pre-empting exclusive use of the "L Band" by the American military.

We have since learned, however, that *the Federal Communications Commission itself* has recently voted for partial pre-emption of the "L Band" in order to accommodate certain wireless transmissions. That decision was made in a December 21, 2001 Report & Order and Memorandum Opinion & Order in FCC Docket 00-221.

THE AMHERST ALLIANCE hereby incorporates by reference all of the documents filed in FCC Docket 00-221, as well as all related Dockets and documents, notably including the text of the FCC's own Report & Order and Memorandum Opinion & Order, dated December 21, 2001.

The documents in FCC Docket 00-221 must be carefully assessed before the Commission makes any firm decisions in the current, directly related Docket.

Now that *the Federal Communications Commission itself* has determined that exclusive use of the "L Band" by the American military is apparently not necessary for national security, there is nothing left of the Commission's original *core justification* for prioritizing research, testing and evaluation regarding IBOC technology over research, testing and evaluation regarding Eureka-147 technology.

Need To Consider The Documents In FCC Docket MM 00-47

Another argument against Eureka-147 has also been answered by the passage of time. The advent of *Software Defined Radio*, which is the focus of FCC Docket MM 00-47, has resolved some of the earlier technical limitations of Eureka-147 technology.

In this regard, we hereby incorporate by reference all of the documents which have been filed in FCC Docket MM 00-47, including the text of the Commission's Report & Order on September 14, 2001.

Need For Intense Focus On SOFTWARE DEFINED RADIO

The immense potential contribution of Software Defined Radio deserves careful assessment and consideration before the FCC makes a final selection of *either one* of the two competing Digitalization technologies.

Need For Full Testing And Evaluation Of Eureka-147 Technology

We submit that the demise of the Commission's original reasons for rejecting Eureka-147 justifies a return to Square One. While there is a need for additional research, testing and evaluation of the IBOC Digitalization technology, if indeed it is "still in the running", it is also time to begin a comparable process of research, testing and evaluation for the Eureka-147 Digitalization alternative.

In no event should IBOC Digitalization be mandated until and unless the competing Eureka-147 technology has been researched, tested and evaluated at least as thoroughly as the IBOC Digitalization technology has been.

New Petition For Rulemaking On Radio Digitalization

In this regard, *we hereby incorporate by reference the April 2002 Petition For Rulemaking, to establish a program for the full testing and evaluation of the Eureka-147 Digitalization technology, and also to require further testing and evaluation of the IBOC Digitalization technology, that was filed by THE AMHERST ALLIANCE and 9 others.* This Petition For Rulemaking is currently un-Docketed and has been placed in PRM02MB while it awaits Docketing.

The Petition was dated April 12, 2002 and posted on the FCC's ECFS on April 15, in the case of FCC Docket MM 95-31, and on April 17, in the case of PRM02MB. Two other signatories were added later, at their request, through an Addendum to the FCC that was dated April 17, 2002 and posted on the FCC's ECFS on April 18, in the case of FCC Docket MM 95-31, and April 26, in the case of PRM02MB.

The 12 signatories of this Petition For Rulemaking constitute a diverse coalition of 8 organizations, 5 of which are actual or aspiring Low Power FM and/or Low Power AM broadcasters, *plus* 4 individual citizens (including one potential Low Power FM licensee) who are concerned about the shrinkage of media diversity in the United States.

The names of the 12 Co-Petitioners are worth noting:

THE AMHERST ALLIANCE, *Golden, Colorado*
REC NETWORKS, *Tempe, Arizona*
ROGUE COMMUNICATION, *Santa Cruz, California*
MATTHEW HAYES, *Portland, Oregon*
JOHN ANDERSON, *Madison, Wisconsin*
JAMRAG MAGAZINE/GREEN HOUSE MAGAZINE, *Ferndale, Michigan*
KOL AMI HAVURAH, *Benwood, West Virginia*
VIRGINIA CENTER FOR THE PUBLIC PRESS, *Richmond, Virginia*
NICKOLAUS E. LEGGETT, *Reston, Virginia*
WILW RADIO, *West Hartford, Connecticut*
WESLE ANNEMARIE DYMOKE, *Providence, Rhode Island*
CITIZENS' MEDIA CORPS/ALLSTON-BRIGHTON FREE RADIO, *Allston, Massachusetts*

The Obvious Choice

If the Federal Communications Commission is willing to give as much weight to the views of actual radio listeners, and of potentially threatened small broadcasters, as it assigns to the views of those with a direct financial stake in mandatory implementation of the IBOC technology, *then* the Commission's next course of action should be obvious.

Prudent consideration of all the alternatives, notably including Eureka-147

Digitalization and Software Defined Radio, is clearly warranted. There is no need for, nor any other justification for, "a rush to judgment" on IBOC.

Misrepresentation Of An AMHERST Proposal By NATIONAL PUBLIC RADIO

Finally, we have read the Reply Comments filed in this Docket by NATIONAL PUBLIC RADIO. We claim the right to correct their presumably unintentional misrepresentations -- regarding matters which reflect on Amherst directly.

While we commend NPR for at least “flashing a yellow light” regarding the corporate campaign for “a rush to judgment” on IBOC Digitalization, we are concerned that NPR’s Reply Comments embody a misunderstanding and/or misrepresentation of a proposal presented in Amherst’s recent Written Comments in this Docket.

Specifically, NPR states THE AMHERST ALLIANCE has proposed that, in the event of a shift to IBOC Digitalization, each proposed IBOC facility should have to obtain case-by-case permission from local Low Power FM stations before that IBOC facility can obtain a license to broadcast.

However, THE AMHERST ALLIANCE has *not* stated that future IBOC facilities, if there are any, should require case-by-case permission from local Low Power FM stations. Instead, we have stated in our recent Written Comments that each proposed IBOC facility should have to obtain case-by-case permission *from the Federal Communications Commission*, based on *Commission-supervised testing* to assess the possibility of major interference

Further, we have never said or implied that the interference assessment for each proposed IBOC facility should consider *only* the impact on Low Power FM stations.

Instead, we stated in our Written Comments that the interference testing should assess the possible impact on *all* stations with current or pending licenses. We added that corrective action should be taken, at the expense of the IBOC facility's owner(s), if *any* rival station would be significantly harmed in the absence of such corrective action.

Finally, NPR alleges that *some* Low Power FM advocates have said, in documents filed in FCC Docket MM 99-25, that IBOC Digitalization would not pose a risk of interference to Low Power FM stations.

Of course, we do not know the context from which the quotes cited by NPR were drawn. Even if the quotes are totally accurate, they were *not* made by THE AMHERST ALLIANCE nor by any of Amherst's usual allies, such as AMERICANS FOR RADIO DIVERSITY and VIRGINIA CENTER FOR THE PUBLIC PRESS.

Instead, the quotes come from filings by groups such as MEDIA ACCESS PROJECT, which entered the Low Power FM debate late in the day and have *never* represented the constituencies served by Amherst and/or its traditional allies.

THE AMHERST ALLIANCE has *never* said, or implied, that IBOC poses no risk of interference with Low Power FM stations. While we have only recently moved to an outright endorsement of Eureka-147, we have *always* expressed concern about the possible impact of IBOC Digitalization upon a Low Power Radio Service.

Expressions of this concern can be traced back to our very first Written Comments in FCC Docket MM 99-325, filed in December of 1999.

CONCLUSION

For the reasons expressed herein, we continue to urge the Commission to reject mandatory IBOC Digitalization and fully investigate the Eureka-147 alternative, with a special focus on the possible contribution of Software Defined Radio.

Respectfully submitted,

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Dated: _____

July 8, 2002

A copy of these Additional Reply Comments has been mailed to every party who sent a copy of their Reply Comments to us.